THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 424 of 2006

DATED: 06.01.2006

Between:

Pokala Kamaiah & others

… PETITIONER S

AND

The A.P. Eastern Power Distribution Co., Ltd.,

Visakhapatnam, rep., by its

Chairman-cum-Managing Director

& another.

… RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 424 of 2006

ORDER:-

This writ petition is filed to declare the impugned provisional assessment notice, dated 26.10.2005, issued by the 2nd respondent, threatening to disconnect power supply to the poultry farming units of the petitioners at Velama Kothuru village, Tuni Mandal, East Godavari District if they fail to pay 50% of the estimated amount, as illegal, arbitrary and in breach of provisions of Electricity law.

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents.

The petitioners are holding different service connections for their poultry farm sheds issued by the respondents. It is stated that all the petitioners entered into an agreement with the respondent company that if the birds was less than 1000, the service connection under Category IV will apply and if the birds exceeds 1000 then service connection under category III will apply. It is stated that the petitioners having obtained the service connections under Category IV, changed the terms and conditions of the agreement by utilizing the electricity for 1500 birds.

The respondent company, for utilizing the electricity for more than 1000 birds i.e., for 1500 birds, by the petitioners, estimated the loss of energy misused by each petitioner at Rs.3742/- and separate notices, dated 26.10.2005, were issued directing the petitioners to pay half of the said amount, otherwise, the service connections may be disconnected without any further notice.

It is stated that the said provisional assessment notices, dated 26.10.2005, were made under Section 126 of the Electricity Act 2003 (for short “the Act”), and after making the provisional assessment order under Section 126 (2), the petitioners are entitled to file objections under Section 126 (3) where it is open for the persons to accept the provisional assessment and make the payment within seven days, otherwise, it is open for them to file objections disputing the allegations made in the provisional assessment notice from the date of service of the provisional assessment. If any objections are filed, they shall be considered and final orders are to be passed in accordance with Sections 126 (5) & (6) of the Act.

In the instant case, no objections are called for. Therefore, the petitioners are directed to file objections within seven days from the date of receipt of this order, and if any such objections are filed within the time stipulated above, the 2nd respondent is directed not to disconnect the service connections for non-payment of the provisional estimated amount. He is further directed to consider and dispose of the said objections and pass final assessment order, which is appealable under Sec. 127 of the Act.

Accordingly, the writ petition is disposed of. No costs.

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06.01.2006

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